

RESPONSE UNDER 37 C.F.R. § 1.116  
EXPEDITED PROCEDURE  
TC/A.U. 3761

### REMARKS/ARGUMENTS

Claims 1 - 20 are presented for Examiner Reichle's consideration. Claims 21 - 26 were withdrawn from consideration by the Examiner for she felt that they relate to a non-elected species. However, the Examiner has stated that upon allowance of a generic claim, Applicants are entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

Pursuant to 37 C.F.R. § 1.116, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

The Examiner has stated that Applicants' new Abstract filed on June 7, 2005 did not comply with 37 CFR 1.121 because it was not presented on a separate sheet. Applicants herewith are presenting the Abstract on a separate sheet as required by 37 CFR 1.121. Applicants hereby request that the Examiner enter this new Abstract at this time.

The paragraph in the specification at page 11, lines 11 -19, has been indented to match the remainder of the specification. No new matter has been introduced by way of this change.

By way of the Office Action mailed August 22, 2005, Examiner Reichle objected to claims 1 - 8, 12 - 14 and 20 because of the following informalities:

Independent claim 1, line 17, appears to be missing a word or words after "matching" in paragraph d).

Independent claim 12, line 20, appears to be missing a word or words after "cover" in paragraph d).

Dependent claim 20, line 1, appears to be missing a word or words after "The method of claim 18".

Applicants have amended independent claims 1, 9, 12, 15 and 18 as well as dependent claim 20.

Claim 1 has been amended as follows: in paragraph a), the phrase "being free of elastics" has been added when referring to the pair of fringes. Basis for this language is found in the specification on page 12, lines 25 - 26. In paragraph b), the wearer's legs extend through said leg openings and the phrase "and cause said crotch portion to be stretched out," has been added. Basis for this language is found in the specification at page 14, lines 27 - 28. Lastly, in paragraph d), after the word "matching", the phrase "at least a portion of said crotch portion of said primary absorbent undergarment" has been

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added. Basis for this language is found in the specification at page 2, lines 13 – 15 and in original claim 12, paragraph d).

Claim 9 has been amended as follows: in paragraph a), the phrase "being free of elastics" has been added when referring to the pair of fringes. Basis for this language is found in the specification on page 12, lines 25 – 26. In paragraph c), the phrase "matching at least a portion of said crotch portion of said primary absorbent undergarment" has been added. Basis for this language is found in the specification at page 2, lines 13 – 15 and in original claim 12, paragraph d). Lastly, in paragraph d), the wearer's legs extend through said leg openings and the phrase "and cause said crotch portion to be stretched out," has been added. Basis for this language is found in the specification at page 14, lines 27 – 28.

Claim 12 has been amended as follows: in paragraph a), the phrase "being free of elastics" has been added when referring to the pair of fringes. Basis for this language is found in the specification on page 12, lines 25 – 26. Also, in paragraph b), the wearer's legs extend through said leg openings and the phrase "and cause said crotch portion to be stretched out," has been added. Basis for this language is found in the specification at page 14, lines 27 – 28.

Claims 15 and 18 have been amended in a similar fashion as claim 1. The one exception is that in claim 18, the paragraphs are labeled "a), b) and e)" instead of "a), b) and d)". In addition to these amendments to claim 15, the spelling of "positioning" has been corrected. Applicants wish to thank the Examiner for bringing this to our attention.

Dependent claim 20 has been amended after the words "The method of claim 18" by adding the phrase "wherein said absorbent article includes" at least two absorbent articles "which" are secured to said primary absorbent undergarment at the same time. Basis for this language is found in independent claim 18. No new matter has been introduced by way of these amendments and therefore they should be entered at this time.

Applicants believe that these amendments overcome the objections raised by the Examiner and these objections should be withdrawn at this time. Applicants also do not believe that claim 12 has to be amended to add the phrase "and said liner" after the word "cover" as suggested by the Examiner. Figure 5 of Applicants' drawings shows the pair of reservoirs 74 and 76 formed by the cover 12. Therefore, any body fluid that may run off of the bodyside cover 12 would flow into the pair of reservoirs 74 and 76.

By way of the Office Action mailed August 22, 2005, Examiner Reichle rejected claims 1 – 20 under 35 U.S.C. § 103 as allegedly being obvious to one of ordinary skill in the art at the time the

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invention was made and thus unpatentable over EP patent number 0 945 110 A2 to Fujioka. This rejection is respectfully **traversed** in view of the amendments to the independent claims.

Applicants' amended independent claims differ over Fujioka '110 in at least two patentably distinct ways. First, all of applicants' independent claims recite that the pair of fringes formed on the absorbent article are "free of elastics". The Fujioka patent specifically teaches the opposite at column 4, lines 16 – 26. The Fujioka patent states that:

"The urine-absorbent pad 20 has elastic members 24 disposed between the facing layer 21 and the backing layer 22. These elastic members 24 exist in side areas where the absorbent core 23 is absent. The elastic members 24 are bonded to the facing layer 21 and the backing layer 22 in its stretched state in the Y direction. In their free state, they shrink in the Y direction, causing the facing layer 21 and the backing layer 22 to form gathers 25 on both the side areas of the urine-absorbent pad 20 in the X direction."

Because Applicants' absorbent article is free of elastics, it can have an initial flat orientation and will acquire a curved configuration when it is secured to the primary absorbent undergarment. This in turn allows the pair of fringes to be biased upward to form a pair of upstanding side walls which form fluid reservoirs located adjacent to the absorbent core. The Fujioka patent is different in that the pad 20 is formed into a cup shape by the tension in the elastic members 24 before it is secured to the diaper. It also functions differently in that it is the elastic members 24 that cause the fringes to turn upward not the securement of the absorbent article to the primary absorbent undergarment.

The second patentably distinct feature is that Applicants' independent claims recite that the "positioning of the wearer's leg through the leg openings cause the crotch portion to be stretched out". This allows the absorbent article to be firmly secured to the primary absorbent undergarment. No wrinkles or rugosities will be present in the crotch portion which could prevent a good bond from forming with the adhesive located on the lower surface of the absorbent article. The Fujioka patent does not teach or disclose this feature. Accordingly, Applicants believe that their amended Independent claims clearly contain patentable subject matter that distinguishes their invention over the Fujioka patent and these claims should be allowed at this time. Applicants' dependent claims, now depending from patentably distinct independent claims, are now also in condition for allowance.

For the reasons stated above, it is respectfully submitted that amended claims 1, 9, 12, 15, 18 and 20, as well as dependent claims 2 – 8, 10, 11, 13, 14, 16, 17, and 19 are in form for allowance. Claims 21 – 26 have been withdrawn by the Examiner.

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Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (920) 721-2455.

Respectfully submitted,  
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#### CERTIFICATE OF TRANSMISSION

I, Lanette Burton, hereby certify that on November 11, 2005, this document is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300.

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